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Paper No. 10

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WASHINGTON , DC 20004-1008

In re Application of :
Christopher J. Lasher, :
Dennis W. Rice, Michael J. Szesko, :
Michael L. Maher :
Application No. 09/512,734 :
Filed: February 24, 2000 :
Title of Invention: ENHANCED DRUG :
DISPENSING SYSTEM :
:

SPECIAL PROGRAMS OFFICE
DECISION ~~FOR PRACTICE~~
STATUS
UNDER 37 CFR 1.47(a)

MAY 09 2001

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This is in response to a petition under 37 CFR 1.47(a), filed October 27, 2000.

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 24, 2000, without a fully executed oath or declaration. Accordingly, on March 27, 2000, a "Notice to File Missing Parts of Application" (hereinafter "Notice") was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration.

In response, on October 27, 2000, applicant filed the instant petition under 37 CFR 1.47(a). The Petition avers that the nonsigning inventor, Michael L. Maher, has refused to respond to various attempts, and therefore, has refused to sign a declaration of inventorship. In support of the Petition, the Declaration of Irah H. Donner is submitted. The Affidavit avers that Mr. James M. Hunter mailed Mr. Maher the application and declaration at his last known address.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

As to item (1), the applicant has failed to establish that the non-

signing inventor, Michael L. Maher, was presented with the application papers (specification, claims and drawings). Petitioner avers that Mr. James M. Hunter mailed the reissue application and declaration to the nonsigning inventor. An affidavit or declaration from Mr. Hunter, or an explanation as to why an affidavit or declaration from Mr. Hunter can not be obtained, is required. See MPEP 409.03(d).

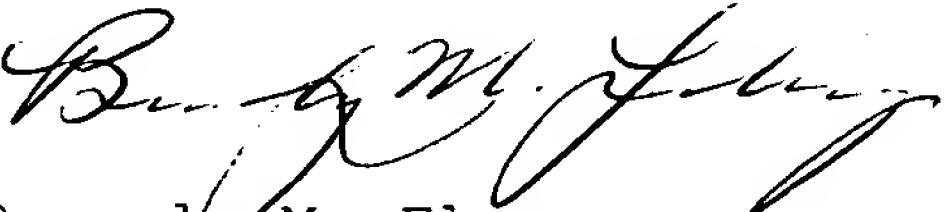
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
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Telephone inquiries related to this decision may be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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for Patent Examination Policy